

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 1:14-CR-138

DELVON TOLBERT,

Hon. Paul L. Maloney

Defendant.

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REPORT AND RECOMMENDATION

Pursuant to W.D. Mich. LCrR 11.1 and upon a request of the district court, I conducted a felony plea hearing in this matter on September 16, 2014, after receiving the written consent of the defendant, the defendant's attorney, and the attorney for the government. These consents were also placed on the record in open court.

Defendant Devlon Tolbert is charged in Counts 2 and 3 of a three-count Indictment with armed bank robbery, and with using and brandishing a firearm during and in relation to a crime of violence. On the basis of this record, I found that defendant was competent to enter pleas of guilty and that his pleas were knowledgeable and voluntary with a full understanding of each of the rights waived by the defendant, that the defendant fully understood the nature of the charges and the consequences of his pleas, and that the defendant's pleas had a sufficient basis in fact which contained all of the elements of the offenses charged.

There was no written plea agreement in this case, but there was an oral agreement.

I accepted the pleas of guilty, subject to final acceptance of the pleas by the District Judge. I ordered the preparation of a presentence investigation report.

Recommendation

Based upon the foregoing, I respectfully recommend that the defendant's pleas of guilty to Counts 2 and 3 of the Indictment be accepted, and that the court adjudicate the defendant guilty of those charges.

Dated: September 16, 2014

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge

NOTICE TO PARTIES

You have the right to *de novo* review by the district judge of the foregoing findings. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than fourteen (14) days after the plea hearing. *See* W.D. Mich. LCrR 11.1(b). A failure to file timely objections may result in the waiver of any further right to seek appellate review of the plea-taking procedure. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Neuman v. Rivers*, 125 F.3d 315, 322-23 (6th Cir.), *cert. denied*, 522 U.S. 1030 (1997); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).